

SBCivil Writ Petition No.881/2006

M/s Shivam Synthetics Pvt. Ltd.

V.
The Presiding Officer, Labour Court, Bhilwara & Ors.

Date of Order :: 12th July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Ravi Bhansali, for the petitioner.

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By this petition for writ a challenge is given to the award dated 29.9.2001 passed by Labour Court, Bhilwara and its publication by appropriate government under Section 17 of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act of 1947") by notification dated 22.7.2002. By the award impugned learned Judge, Labour Court, Bhilwara held that termination of workman Mansingh from services of M/s Shivam Synthetics Pvt. Ltd., Khari-ka-Lamba w.e.f. 25.2.1993 was not just and valid and, therefore, declared him entitled to be reinstated with continuity in service and back wages in a tune of 1/3rd of its total.

while giving challenge to the award impugned it is contended by counsel for the petitioner that Labour Court erred while holding that the workman was in continuous service of the employer as defined under Section 25-B of the Act of 1947. It is also urged that in fact the employer never terminated the workman from

service but he left the services at his own and the same does not amount retrenchment from service.

This Court by order dated 28.3.2006 called the record of the case from Labour Court, Bhilwara. I have perused that too.

This petition for writ was filed before this Court on 28.2.2003. The petitioner removed the defects pointed out by the registry on 20.10.2005. Be that as it may, this petition for writ came up for admission before this Court first time on 28.3.2006 after its filing, meaning thereby i.e. after a lapse of about 4½ years from the date of award impugned.

I have perused the award impugned and also scanned the record of the Labour Court. I do not find any force in the contention of counsel for the petitioner that the workman was never in continuous service of the employer for a period of one year. The workman was employed with the petitioner on 25.12.1990 and was discontinued from services on 25.2.1993. The Labour Court has taken into consideration the entire evidence available on record and gave a finding of fact that the workman was in continuous employment of the employer and he also completed 240 days in a preceding year from the date of his retrenchment. Such finding of fact is not required to be interfered. As a matter of fact the employer never disputed the

continuous employment of the workman before the Labour Court as it is apparent from the fact noted by Labour Court in the award impugned, that reads as under:-

“प्रार्थी मानसिंह ने विपक्षी संस्थान में दिनांक 25-12-90 से 24-2-93 तक निरंतर कार्य किया, जिसका कार्य प्रत्येक कलेंडर वर्षों में 240 दिन से अधिका का रहा है। इस पर दोनों पक्षों में कोई विवाद नहीं है।”

The next contention raised by counsel for the petitioner is also devoid of merit as there is no evidence available on record on basis of which it can be presumed that the workman left the services at his own. On the contrary, the Labour Court considering all available facts on record gave a specific finding that the workman was discontinued from service by way of victimisation as his participation in trade union activities. In the instant matter the finding of fact is based on sound appreciation of evidence available on record. Such finding does not warrant interference of this Court under Articles 226 and 227 of the Constitution of India.

Accordingly this petition for writ is dismissed summarily.

(GOVIND MATHUR), J.

kkm/ps.